

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

IN THE MATTER OF A PETITION FOR
 JUDICIAL ASSISTANCE PURSUANT TO
 28 U.S.C. § 1782 BY

MACQUARIE BANK LIMITED,

Petitioner.

Case No. 2:14-cv-0797-GMN-NJK
 ORDER

Pending before the Court is Petitioner's *ex parte* application for an order pursuant to 28 U.S.C. § 1782 to conduct discovery for use in proceedings in The Netherlands. *See* Docket No. 1. For the reasons explained below, Petitioner is **ORDERED** to file a supplement to the petition no later than May 30, 2014.

I. STATUTORY REQUIREMENTS

One of the statutory requirements for § 1782 relief is that the person from whom the discovery is sought resides or is found in the district of the district court to which the application is made. *See, e.g., In re Bayer AG*, 146 F.3d 188, 193 (3d Cir. 1998). A *prima facie* showing on that requirement suffices. *See, e.g., In re Republic of Ecuador*, 2010 WL 3702427, *3 (N.D. Cal. Sept. 15, 2010). Parties often meet that burden by presenting evidence from their investigation showing the person's residence or presence in the district. *See id.*; *see also In re Application of Ontario Principals' Council*, 2013 WL 6844545, *3 (E.D. Cal. Dec. 3, 2013). In the pending *ex parte* application, Petitioner attempts to make a *prima facie* showing on this element through a statement in a declaration of their counsel indicating that "[i]n the Ma-Juno Proceeding, Ma has stated that he currently resides in Las Vegas, Nevada." *See*

1 Rumora-Scheltema Decl. ¶ 17. No details are provided regarding this statement, including when it was
2 made, in what context it was made, and whether it was made under oath. Nor is a transcript or court
3 filing evidencing this statement provided. The application and declaration appear to provide no other
4 evidence of Mr. Ma's residency.

5 The Court at this time expresses no opinion as to whether the current record is sufficient to make
6 a *prima facie* showing that Mr. Ma resides in this District. Nonetheless, Petitioner is hereby
7 **ORDERED** to file, no later than May 30, 2014, a supplement providing authority and/or further
8 explanation why the current record is sufficient on this requirement. Petitioner may also file, no later
9 than May 30, 2014, supplemental evidence showing that Mr. Ma does indeed reside in this District.

10 **II. DISCRETIONARY FACTORS**

11 The Supreme Court has indicated that district courts are not required to grant a § 1782
12 application simply because the statutory requirements are met. *See Intel Corp. v. Advanced Micro*
13 *Devices, Inc.*, 542 U.S. 241, 264 (2004). Instead, the Supreme Court outlined additional discretionary
14 factors that district courts should consider when ruling on a § 1782 application. *See Ontario Principals'*
15 *Council*, 2013 WL 6844545, at *2 (summarizing four factors). Petitioner contends that "all of the
16 discretionary *Intel* factors weigh in favor of allowing the discovery to be sought." Docket No. 1 at 11.
17 But Petitioner's brief does not contain explicit discussion of the relevant factors. *See id.* at 11-12
18 ("argument" section). As such, Petitioner is hereby **ORDERED** to file, no later than May 30, 2014, a
19 supplement separately addressing each of the discretionary factors.

20 IT IS SO ORDERED.

21 DATED: May 23, 2014.

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NANCY J. KOPPE
United States Magistrate Judge